



Monterey County

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: 21-999

November 16, 2021

Introduced: 11/9/2021

Current Status: Agenda Ready

Version: 1

Matter Type: General Agenda Item

REF210007/WATER AND ENERGY EFFICIENCY IN LANDSCAPING ORDINANCE

(Continued from November 2, 2021).

- a. Introduce, waive reading, and consider an ordinance to add Chapter 16.63 to the Monterey County Code to establish regulations for water-efficient and energy-efficient landscaping in unincorporated Monterey County; and
- b. Set December 7, 2021 at 10:30 a.m. as the date and time to adopt the ordinance

Location: Countywide

Proposed CEQA Action: Consider finding the project categorically exempt pursuant to Section 15307 and 15308 of the CEQA Guidelines.

RECOMMENDATION

It is recommended that the Board of Supervisors:

- a. Introduce, waive reading, and consider an ordinance to add Chapter 16.63 to the Monterey County Code to establish regulations for water-efficient and energy-efficient landscaping in unincorporated Monterey County; and
- b. Set December 7, 2021 at 10:30 a.m. as the date and time to adopt the ordinance.

SUMMARY

The Board of Supervisors considered this proposed ordinance at its November 2, 2021 meeting and continued the hearing on the introduction of the ordinance to the Board's November 16, 2021 meeting.

State law requires the County to implement the state's Model Water Efficient Landscape Ordinance (MWELo) or adopt a local ordinance (Attachment A) that is at least as effective at landscape water conservation. Absent a local landscape ordinance, the County is required to implement and has been implementing the MWELo. If the Board chooses to advance the Water and Energy Efficiency in Landscaping Ordinance (WEELo) for adoption, consideration of adoption would be scheduled on the consent calendar for the Board meeting on December 7, 2021.

If the Board decides not to advance the local ordinance, the County would continue implementing the State MWELo (Attachment D).

DISCUSSION

Concerns raised by the Board during the November 2, 2021 meeting regard the following:

- *The ordinance is too complex and convoluted and could frustrate applicants to install paving instead of landscaping.*

Response. The complexity derives from state law. Since 2010, state law has required the County to implement the state’s model landscape ordinance if the County has not adopted a local ordinance (Gov. Code §65595). To adopt and implement a local ordinance instead of the MWELO, the Board of Supervisors must make a finding that the local ordinance is at least as effective as the state model ordinance at conserving water. The state’s model ordinance contains equally, if not more, complex requirements as the proposed local ordinance. The state requirements, with which applicants are and have been required to comply, include calculations for evapotranspiration for each species of vegetation, plant factors, special landscape areas, hydrozone areas, maximum applied water allowance, irrigation efficiency, and estimated total water use (Cal. Code Regs., tit. 23, §§490 to 495). As required by state law, MWELO requirements have been implemented in the County since 2010. The proposed County ordinance includes the MWELO calculations and further provides simplified direction to applicants in the following manner: 1) pathways for conformance are in two categories of major and minor; 2) landscapes under 2,500 square feet no longer require certification by a licensed landscape architect or landscape professional; 3) for the section Outdoor Potable Water Use in Landscape Areas included in the mandatory measures of the California Green Building Standards Code (“CALGreen”), clarification of compliance pathways; and 4) provision of policy framework within which to integrate state and local requirements for water conservation, energy efficiency, fire safety, and the building code.

- *Requirement that landscape maintenance “shall” be implemented for the life of the project could foment conflict between neighbors during a drought.*

Response. State regulation has, since 2010, required that landscapes shall be maintained to ensure water use efficiency with a regular maintenance schedule which shall include though not be limited to, routine inspection and repairs to irrigation systems; replenishing mulch; and weeding in all landscape areas (Cal. Code Regs., tit. 23, sec. 492.11). The WEELO includes these requirements from the MWELO to meet the requirement to be at least as effective as the MWELO in landscape water conservation. The WEELO includes a maximum water budget not to be exceeded in any year, and encourages planting low-water use vegetation that can withstand drought conditions. Predominantly, Governor Newsom declared a state of drought emergency on October 19, 2021 with wasteful water uses, including landscape-related watering activities, prohibited as follows: use of water to irrigate turf and ornamental landscapes during and within 48 hours after measurable rainfall of at least one-fourth of one inch of rain; use of potable water for irrigation of ornamental turf on public street medians; and use of potable water for decorative fountains or the filling or topping-off of decorative lakes or ponds, with exceptions for those which utilize recycled water. The state of drought emergency supersedes the landscape ordinance.

The state Department of Water Resources (DWR) published a 78-page draft of a MWELO Guidebook on January 11, 2021, to provide background information, explain provisions of the regulations, and give guidance for enforcement. The Guidebook can be found at <https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/Water-Use-And-Efficiency/Urban-Water-Use-Efficiency/MWELO-Files/MWELO-Guidebook/1-Model-Water-Efficient-Landscape-Ordinance-Guidebook.pdf>. The County ordinance authorizes the Board to adopt a County landscape manual to provide guidance for implementing the County’s landscape ordinance and to provide forms for implementation of the ordinance. Staff anticipates

presenting the manual to the Board of Supervisors for the Board's consideration in the early part of 2022.

ENVIRONMENTAL REVIEW

Staff recommends that the Board of Supervisors find adoption of the ordinance exempt from environmental review pursuant to Sections 15307 and 15308 of the CEQA Guidelines because the adoption of the ordinance is an action taken by the County, as authorized by state law, to assure the maintenance, restoration or enhancement of natural resources and the environment. The ordinance is designed to result in water and energy conservation in landscaping and, by incorporating the SB 1383 requirements, to reduce the greenhouse gas, methane. A finding for the CEQA exemption has been incorporated within the ordinance findings.

OTHER AGENCY INVOLVEMENT

County Counsel has reviewed and approved the ordinance as to form.

FINANCING

Funding for staff time associated with preparation of the ordinance is included in the FY2021-22 Adopted Budget in Appropriation Unit HCD-002, Unit 8543. Costs for staff time to review landscape projects after implementation of the ordinance will be recovered through the existing fees charged for landscape project review, which are included in the fee schedule adopted by the Board. Two types of landscape projects will require review by staff as a result of implementation of the ordinances: Minor Landscape projects and Major Landscape projects. Staff projects that the average staff time spent on Minor Landscape projects (plan review and final inspection) equates to approximately 1.5 hours while the average staff time spent on Major Landscape project review is project to be approximately 3 hours. Complex landscape projects requiring additional review time beyond the average can be recovered through the re-inspection fee, or a deposit.

Due to late submission of this Board Report, the CAO Budget and Analysis Division was not provided adequate time to fully review for potential fiscal, organizational, policy, or other implications to the County of Monterey.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES

This action represents an effective response to our County customers' needs, as well as the protection of the public interest in water conservation. Adoption of these ordinances will result in reduction in water and energy use.

Check the related Board of Supervisors Strategic Initiatives:

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

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Reviewed by: Craig Spencer, Chief of HCD-Planning

Approved by: Erik V. Lundquist, AICP, Director of HCD *EVL*

The following attachments on file with the Clerk of the Board:

Attachment A - Ordinance for Water and Energy Efficient Landscapes

Attachment B - Planning Commission Resolution No. 15-027

Attachment C - November 2, 2021 Board of Supervisors Abbreviated Staff Report (Attachments not included)

Attachment D - State Model Water Efficient Landscape Ordinance (MWELO)

cc: Front Counter Copy; California Coastal Commission; HCD-Development Services; Public Works, Parks, and Facilities (PWPF); Environmental Health Bureau; Monterey County Water Resources Agency; HCD-Environmental Services; Monterey Peninsula Water Management District; Office of the Agricultural Commissioner; Jonathan Pangburn, Unit Forester, CAL Fire San Benito - Monterey; Anna V. Quenga, AICP, Interim HCD Services Manager; Monterey Bay AIA; Michael Waxer; Rob Carver; Lino Beli; Richard Rudesill; Michael Harrington, Frank Pierce; The Open Monterey Project (Molly Erickson); LandWatch (Director); The Refinement Group; Project File REF210007.